

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CEDERIC E. POWELL-EL

Petitioner,

Case No. 3:16-cv-109

vs

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

MARK HOOKS, Warden,

Respondent,

ENTRY AND ORDER OVERRULING PETITIONER'S OBJECTIONS (DOC. 56,63 AND 70) TO MAGISTRATE JUDGE MICHAEL R. MERZ'S REPORT AND RECOMMENDATION (DOC. 48), SUPPLEMENTAL REPORT AND RECOMMENDATION (DOC. 58) AND SECOND SUPPLEMENTAL REPORT AND RECOMMENDATION (65); ADOPTING IN THEIR ENTIRETY THE REPORTS AND RECOMMENDATIONS (DOC. 48, 58 AND 65); DISMISSING WITH PREJUDICE THE PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS, DENYING PETITIONER A CERTIFICATE OF APPEAL ABILITY AND PERMISSION TO APPEAL *IN FORMA PAUPERIS* AND TERMINATING CASE.

This is a habeas corpus case under 28 U.S.C. 2254. On 2/07/18, Magistrate Judge Michael R. Merz filed a Report and Recommendations (Doc.48) recommending Petitioner's Petition for Writ of Habeas Corpus be dismissed with prejudice. In response Petitioner filed Objections (Doc.56) to said Report and Recommendations. This Court recommitted the case to the Magistrate Judge for reconsideration in light of those Objections. On 5/09/18 Magistrate Judge Merz filed a Supplemental Report and Recommendations (Doc. 58) again recommending a dismissal with prejudice of the Petitioner's Petition. Petitioner again filed Objections (Doc. 63) to the Magistrate Judge's Supplemental Report and Recommendations. This Court for a second time recommitted the case to the Magistrate Judge for reconsideration in light of the Objections. On 7/06/18 Magistrate Judge Merz filed a Second Supplemental Report and Recommendations

(Doc.65) again recommending a dismissal with prejudice of the Petitioner's Petition to which Petitioner again has Objected (Doc 70).

The Court has reviewed the comprehensive findings of the Magistrate Judge in all three of his Report and Recommendations (Doc. 48,58 and 65) as well as the Petitioner's Objections (Doc 56, 63 and 70) to those Reports and Recommendations. Pursuant to 28 U.S.C. 636(b) and Fed. R. Civ. 72(b) this District Judge has made a *de novo* review of the record in this case and upon consideration of the foregoing, the Court finds the Objections (Doc. 56,63 and 70) are not well taken and hereby OVERRULED.

THEREFORE, the Court adopts the Magistrate Judge's Report and Recommendations (Doc. 48), Supplemental Report and Recommendations (Doc. 58) and Second Supplemental Report and Recommendations and ORDERS Defendant's Section 2254 Petition be DISMISSED WITH PREJUDICE. The Court also finds reasonable jurists would not disagree with this conclusion and DENIES Defendant a certificate of appealability and permission to appeal *in forma pauperis*. The Clerk is **ORDERED** to terminate the instant case.

DONE and **ORDERED** this 18th day of December, 2018.

*s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE